

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JUANA CRUZ, ET AL.

VS.

DELIA GARZA A/K/A DELIA  
LUBIN, ET AL.

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Civil Action 7:25-cv-00015  
JURY DEMANDED

PLAINTIFFS' SECOND MOTION FOR LEAVE TO AMEND COMPLAINT  
TO CORRECT THE MISNOMER OF THE DEFENDANT ALEJANDRO  
TREVINO

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, Plaintiffs JUANA CRUZ, ET AL., in the above referenced civil action matter moves this Court for leave to file their second Amended Petition in this case. The grounds follow:

1. *Under Rule 15(a), leave to amend a petition is to be “freely given when justice so requires.” The emphasis is on “freely given”, and courts have repeatedly explained that this provision governing amended pleadings is to be liberally construed in favor of permitting amendments. Absent factors counseling against permitting the amendment, such as filing in bad faith, or efforts to cause undue delay in the pending proceedings, then pleading amendments should be permitted.*
2. The decision of whether to grant leave to amend nevertheless remains within

the discretion of the district court, which may deny leave to amend due to "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [and] futility, of amendment." *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962). An outright refusal to grant leave to amend without a justifying reason is, however, an abuse of discretion. *Id.* Plaintiff has corrected the parties to the case, removing claims, and correcting the petition.

3. This case was first filed in the State District Court in Hidalgo County on August 23, 2023.

4. Defendants removed the civil action from State Court to Federal Court on October 6, 2023.

5. On April 4th, 2025, Plaintiffs 1<sup>st</sup> amended complaint was filed.

6. Plaintiff's Co- Counsel, Richard Rene Alamia was informed of the misnomer of the defendant Alejandro Trevino by one of the named plaintiffs.

7. Plaintiff's attempts to serve "Alejandro Trevino" at an address provided by one the plaintiffs. See attached affidavit from P.C.P. corporate marked as Exhibit A.

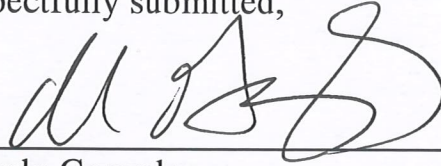
8. Submitted simultaneously as Exhibit B with this Motion for Leave to File is Plaintiffs' Proposed Second Amended Complaint.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for the Court to

*Plaintiffs' Motion for Leave to*  
*File Second Amended Petition*

grant this motion and order, their Amended Petition to be filed by the Clerk, and for whatever further the Court deems just and proper in the premises.

Respectfully submitted,



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**CERTIFICATE OF CONFERENCE**

I certify that on the 7th day of July, 2025, I emailed opposing counsel on whether she opposed ~~to~~ this motion for leave. On July 8<sup>th</sup>, 2025 Ms.Valle emailed her opposition to our motion for leave.

  
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RICARDO GONZALEZ

**CERTIFICATE OF SERVICE**

This is to certify that on July 10<sup>th</sup>, 2025, a true and correct copy of this Motion for Leave was served upon all interested parties via CM/ECF to the following:

Lorena Valle  
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RICARDO GONZALEZ